

# HOUSE . . . . . No. 4473

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## The Commonwealth of Massachusetts

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HOUSE OF REPRESENTATIVES, November 1, 2005.

The committee on Telecommunications, Utilities and Energy to whom was referred the petition (accompanied by bill, House, No. 4438) of Thomas M. Petrolati and others relative to heating energy assistance and relief, reports recommending that the accompanying bill (House, No. 4473) ought to pass.

For the committee,

BRIAN S. DEMPSEY.

**The Commonwealth of Massachusetts**

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In the Year Two Thousand and Five.

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**AN ACT RELATIVE TO HEATING ENERGY ASSISTANCE AND TAX RELIEF.**

1     *Whereas*, The deferred operation of this act would tend to  
2     defeat its purpose, which is to establish forthwith a heating energy  
3     assistance and tax relief program, therefore it is hereby declared  
4     to be an emergency law, necessary for the immediate preservation  
5     of the public convenience.

*Be it enacted by the Senate and House of Representatives in General  
Court assembled, and by the authority of the same, as follows:*

1     SECTION 1. To provide for supplementing a certain item in the  
2     general appropriation act for fiscal year 2005, the sums set forth  
3     in section 2 are hereby appropriated from the General Fund unless  
4     specifically designated otherwise in this act or in said appropria-  
5     tion act, for the several purposes and subject to the conditions  
6     specified in this act or in said appropriation act and subject to  
7     laws regulating the disbursement of public funds for the fiscal  
8     year ending June 30, 2005. The sums in said section 2 shall be in  
9     addition to any amounts previously appropriated and made avail-  
10    able for the purposes of those items; provided, that all sums  
11    appropriated in section 2 shall not revert and shall be available for  
12    expenditure until June 30, 2006.

1     SECTION 2.

**DEPARTMENT OF HOUSING AND  
COMMUNITY DEVELOPMENT.**

*Department of Housing and Community Development.*

7004-1000     For a one-time state supplement to the federal Low Income  
Home Energy Assistance Program 42 U.S.C. §§ 8621 et  
seq., for the purpose of assisting low-income elders,  
working families and other households with the purchase  
of heating oil, propane and natural gas and electricity and  
other primary or secondary heating sources; provided, that  
expenditure of these supplemental funds shall be made in  
accordance with the state plan submitted by the depart-  
ment of housing and community development in accor-

dance with the federal program; and provided further, that the department shall increase any previously-established maximum assistance for which a household is eligible commensurate with the increased funding provided herein; \$5,000,000 shall be available for said program immediately and shall be available for all eligible households; and \$15,000,000 shall be available for expenditure for said program after federal funds available for said purpose have been expended; provided however, that such additional assistance awarded by said program shall be expended in the following order of priority: (1) all eligible households not previously awarded assistance by said federal program; and (2) households previously awarded federally funded assistance in fiscal years 2005 and 2006; provided further, that the department may increase maximum assistance for which a household is eligible to reflect the needs of such households; and provided further, that any supplemental federal funds allocated to said program received during fiscal year 2006 shall be expended prior to any expenditures from this item. In increasing benefit levels as required herein, the department shall establish benefit levels reasonably designed to expend all available state and federal funds and, in the event that federal funds to the state program are not allocated by October 1, 2005, shall establish a baseline assumption that the state will receive no less federal funding than it received in fiscal year 2005..... 20,000,000.

1 SECTION 3. Section 19 of chapter 25 of the General Laws, as  
2 appearing in the 2004 Official Edition, is hereby amended by  
3 striking out, in line 1, the number “10” and inserting in place  
4 thereof the following number:— 15.

1 SECTION 4. Said section 19 of said chapter 25, as so  
2 appearing, is hereby further amended by striking out, in line 11,  
3 the figure “2007” and inserting in place thereof the following  
4 figure— 2012.

1 SECTION 5. Said section 19 of said chapter 25, as so  
2 appearing, is hereby further amended by striking out, in line 29,  
3 the figure:— “2006” and inserting in place thereof the following  
4 figure:— 2011.

1 SECTION 6. Chapter 63 of the General Laws is hereby  
2 amended by inserting after section 38S the following section:—  
3 Section 38T. (a) A credit of up to \$300 or 15 per cent,  
4 whichever is less, of the aggregate cost of the purchase and instal-

5 lation of a solar water heating system shall be allowed per return  
6 against the taxes imposed by this chapter for the cost of the retail  
7 purchase and installation of a solar water heating system in a com-  
8 mercial building.

9 (b) A credit allowed under this section for the purchase and  
10 installation of a solar water heating system in a commercial  
11 building between December 1, 2005 and March 31, 2006 may be  
12 applied for the taxable year 2006. The taxpayer may carry over  
13 and apply to the tax, in taxable year 2007, the portion of those  
14 credits which exceed the tax for taxable year 2006.

15 (c) The commissioner of revenue shall promulgate rules and  
16 regulations necessary for the implementation of this section. The  
17 rules and regulations shall include provisions to prevent the gener-  
18 ation of multiple credits with respect to the same property.

1 SECTION 7. Section 38T of said chapter 63 is hereby repealed.

1 SECTION 8. Section 1F of chapter 164, as appearing in the  
2 2004 Official Edition, is hereby amended by striking out, in  
3 line 83, the figure “175” and inserting in place thereof the  
4 following figure:— 200.

1 SECTION 9. Subparagraph (i) of clause (4) of said section 1F  
2 of said chapter 164, as so appearing, is hereby amended by adding  
3 the following paragraphs:—

4 In any program year in which maximum eligibility for the low-  
5 income home energy assistance program, or its successor pro-  
6 gram, exceeds 200% of the federal poverty level, a household that  
7 is income eligible for the low-income home energy assistance pro-  
8 gram shall be eligible for the low-income discount rates required  
9 by this subsection.

10 The department is hereby directed to increase the low-income  
11 discount eligibility rate from 175% of the federal poverty level to  
12 200% of the federal poverty level, as found in regulation 220  
13 CMR 14.03(2A).

1 SECTION 10. Subparagraph (iii), of clause 4 of said section 1F  
2 of said chapter 164, as so appearing, is hereby amended by  
3 inserting at the end thereof the following two paragraphs:—

4 The department shall promulgate rules and regulations  
5 requiring utility companies organized pursuant to the provisions  
6 of this chapter to produce information, in the form of a mailing, or  
7 other approved method of distribution, to their consumers, to  
8 inform them of available rebates, discounts, credits, and other  
9 cost-saving mechanisms that can help them lower their monthly  
10 utility bills, and send out such information semi-annually, unless  
11 otherwise provided by this chapter.

12 On or before January 1, 2006, each utility company organized  
13 under the provisions of this chapter shall file with the department  
14 a plan, detailing that information regarding available discounts,  
15 credits, and other cost-saving mechanisms, that will be dispersed  
16 to consumers pursuant to this section. The department shall  
17 review each plan and make an express finding whether the plan is  
18 consistent with or substantially complies with the provisions of  
19 this chapter. The department shall permit the implementation of  
20 plans approved during 2005.

1 SECTION 11. Notwithstanding any general or special law, rule  
2 or regulation to the contrary, for taxable years 2005 and 2006,  
3 there shall be deducted from the adjusted gross income in deter-  
4 mining taxable income: up to \$800 for the cost of home heating  
5 oil, natural gas, and propane. The deduction shall be available to  
6 single persons if the taxpayer's adjusted gross income is equal to  
7 or less than \$50,000, and to joint filers and single persons that  
8 qualify as a head of household if the taxpayer's adjusted gross  
9 income is equal to or less than \$75,000.

10 (a) The deductions may be used only for the cost of home  
11 heating oil, natural gas and propane purchased between November  
12 1, 2005 and February 28, 2006.

13 (b) Any taxpayer entitled to a deduction under this section may  
14 apply the deduction in taxable year 2005 for purchases made in  
15 2005. If the taxpayer does not take the full \$800 deduction in tax-  
16 able year 2005, the taxpayer may take the remainder in taxable  
17 year 2006 for purchases made in 2006 through February 28, 2006.

18 (c) The commissioner of revenue shall promulgate rules and  
19 regulations necessary to implement this section, provided, how-  
20 ever, that the commissioner shall also include in such rules and  
21 regulations eligibility provisions for a taxpayer who owns a con-

22 dominium or a cooperative dwelling and for whom such purchases  
23 are accounted for in a common area fee or special assessment  
24 against such costs as may be reasonably attributed to the per-  
25 centage ownership share of the condominium or cooperative  
26 dwelling costs; and provided further, that the commissioner shall  
27 also include in such rules and regulations eligibility provisions for  
28 a taxpayer who rents a residential dwelling and for whom such  
29 purchases are accounted for in the rent and provisions that account  
30 for multiple renters in a residential dwelling. The department shall  
31 file a copy of any rules and regulations with the clerks of the  
32 senate and of the house of representatives and with the joint com-  
33 mittee on revenue.

1 SECTION 12. Notwithstanding any general or special law or  
2 rule or regulation to the contrary, an owner of residential property  
3 located in the commonwealth shall be allowed a one-time credit  
4 against the tax imposed by chapter 62 of the General Laws for all  
5 energy efficient items purchased on or after December 1, 2005,  
6 but not later than March 31, 2006, for installation in said property.  
7 The credit allowed for such purchases for installation in any 1 res-  
8 idential building shall not exceed \$600; provided, however, that,  
9 in the case of a multi-unit dwelling, the credit shall not exceed  
10 \$1,000. No taxpayer shall be allowed a credit under this section in  
11 excess of \$1,000. Joint owners of a residential property shall share  
12 any credit available to the property under this subsection in the  
13 same proportion as their ownership interest.

14 The credit allowed under this section may be taken in taxable  
15 year 2005 or 2006, regardless of the exact date on which any or all  
16 qualifying purchases were made. The amount of credit that  
17 exceeds the total tax due for the taxable year in which the credit is  
18 taken may be carried over, as reduced, and applied against the tax  
19 liability for the next taxable year; provided, however, that in no  
20 taxable year may the amount of the credit allowed exceed the total  
21 tax due of the taxpayer for the relevant taxable year.

22 The commissioner of revenue shall promulgate such rules and  
23 regulations as may be necessary for the implementation of this  
24 section; provided, however, that the commissioner shall also  
25 include in such rules and regulations eligibility provisions for a  
26 taxpayer who owns a condominium or a cooperative dwelling and

27 for whom such purchases are accounted for in a common area fee  
28 or special assessment against such costs as may be reasonably  
29 attributed to the proportionate ownership share of the condo-  
30 minium or cooperative dwelling costs. The department shall file a  
31 copy of any rules and regulations with the clerks of the senate and  
32 of the house of representatives and with the joint committee on  
33 revenue.

34 As used in this section the following words shall have the  
35 following meanings:—

36 “Energy efficient heating items”, shall include, but not be lim-  
37 ited to, home insulation, new window installation, advanced pro-  
38 grammable thermostats, fuel efficient furnaces, boilers, oil, gas,  
39 propane, or electric heating systems, solar domestic hot water sys-  
40 tems, materials for insulation or sealing of a duct, attic basement,  
41 rim joint or wall and pipe insulation for heating systems.

42 “Net expenditure”, the total of the purchase price for all energy  
43 efficient items, plus installation cost less any credits received pur-  
44 suant to the Internal Revenue Code, any grants or rebates received  
45 from the United States department of housing and urban develop-  
46 ment, and any rebates or discounts received from an electric  
47 utility or gas utility.

1 SECTION 13. Notwithstanding any general or special law or  
2 rule or regulation to the contrary, an owner of residential property  
3 located in the commonwealth shall be allowed a one-time credit  
4 against the tax imposed by chapter 63 of the General Laws for all  
5 energy efficient items purchased on or after December 1, 2005,  
6 but not later than March 31, 2006, for installation in said property.  
7 The credit allowed for such purchases for installation in any 1 res-  
8 idential building shall not exceed \$600; provided, however, that,  
9 in the case of a multi-unit dwelling, the credit shall not exceed  
10 \$1,000. No taxpayer shall be allowed a credit under this section in  
11 excess of \$1,000. Joint owners of a residential property shall share  
12 any credit available to the property under this subsection in the  
13 same proportion as their ownership interest.

14 The credit allowed under this section may be taken in the fiscal  
15 year in which any qualifying purchase was made. The amount of  
16 credit that exceeds the total tax due for the fiscal year in which the  
17 credit is taken may be carried over, as reduced, and applied

18 against the tax liability for the next fiscal year; provided, however,  
19 that in no fiscal year may the amount of the credit allowed exceed  
20 the total tax due of the taxpayer for the relevant fiscal year.

21 The commissioner of revenue shall promulgate such rules and  
22 regulations as may be necessary for the implementation of this  
23 section; provided, however, that the commissioner shall also  
24 include in such rules and regulations eligibility provisions for a  
25 taxpayer who owns a condominium or a cooperative dwelling and  
26 for whom such purchases are accounted for in a common area fee  
27 or special assessment against such costs as may be reasonably  
28 attributed to the proportionate ownership share of the condo-  
29 minium or cooperative dwelling costs. The department shall file a  
30 copy of any rules and regulations with the clerks of the senate and  
31 of the house of representatives and with the joint committee on  
32 revenue.

33 As used in this section the following words shall have the  
34 following meanings:—

35 “Energy efficient heating items”, shall include, but not be lim-  
36 ited to, home insulation, new window installation, advanced pro-  
37 grammable thermostats, fuel efficient furnaces, boilers, oil, gas,  
38 propane, or electric heating systems, solar domestic hot water sys-  
39 tems, materials for insulation or sealing of a duct, attic basement,  
40 rim joint or wall and pipe insulation for heating systems.

41 “Net expenditure”, the total of the purchase price for all energy  
42 efficient items, plus installation cost less any credits received pur-  
43 suant to the Internal Revenue Code, any grants or rebates received  
44 from the united states department of housing and urban develop-  
45 ment, and any rebates or discounts received from an electric  
46 utility or gas utility.

1 SECTION 14. Notwithstanding any general or special law to  
2 the contrary, the department of telecommunications and energy  
3 shall initiate a generic proceeding, no later than December 1, 2005  
4 to develop standards that shall apply to each electric and gas com-  
5 pany in the commonwealth regarding the adoption of an arrearage  
6 management program for eligible low-income customers. The  
7 department shall require each such company to file by December  
8 30, 2005 an arrearage management program that includes all rele-  
9 vant operational details, including a plan to coordinate the



10 arrearage management plan with the low-income weatherization  
11 and fuel assistance agencies and services. Upon approval by the  
12 department, said company shall implement its program. The  
13 department shall review and approve each program with such  
14 modifications as the department deems appropriate, no later than  
15 February 28, 2006. The department shall conduct an annual  
16 review of such programs and may at any time order such revisions  
17 or modifications as the department deems appropriate. For pur-  
18 poses of this section, an arrearage management program shall  
19 include a plan under which companies work with eligible low-  
20 income customers to establish affordable payment plans and pro-  
21 vide credits to those customers toward the accumulated arrears  
22 where such customers comply with the terms of the program.

23 The department shall require a company that initially offers a  
24 low income customer who has an arrearage, but whose utility  
25 service has not yet been terminated, a payment plan of not less  
26 than 4 months, so that repayment of the entire balance owed shall  
27 be divided into 4 or more equal payments, including an initial  
28 down payment of 25 percent of the balance owed; provided that a  
29 company that seeks a repayment agreement of less than four  
30 months may request the approval from the department for good  
31 cause shown; and provided further, that any company so  
32 requesting must notify the customer that the request has been  
33 made. Nothing in this paragraph shall limit the right of a customer  
34 to request a payment plan of more than 4 months or limit the  
35 authority of the department to order a payment plan of more than  
36 four months either on an individual basis or through revisions to  
37 its billing and termination regulations.

1 SECTION 15. Notwithstanding the provisions of any general or  
2 special law to the contrary the Massachusetts Technology Park  
3 Corporation shall, in consultation with the division of energy  
4 resources, establish a program to expand the production and use  
5 of clean, on-site distributed renewable resources by offering or  
6 causing to be offered zero interest loans to residential customers  
7 in the commonwealth to promote the purchase and installation of  
8 photovoltaic systems that will be connected to the electric distrib-  
9 ution grid. The program shall be funded by the Renewable Energy  
10 Trust Fund established in section 4E of chapter 40J: provided that

11 the fund shall expend not less than \$1,000,000 for the purposes of  
12 this program; and provided, further, that these funds and all other  
13 funds expended by the corporation in furtherance of the increased  
14 installation and use of distributed renewable generation resources  
15 by the corporation shall be deemed to be expended for the primary  
16 purpose of protecting or restoring the environment as such terms  
17 are defined in Section 126(b) of the Internal Revenue Code, as  
18 amended, and the implementing regulation set forth in Title 7  
19 CFR Part 14. The program shall make such loans available for  
20 purchases made on or after March 1, 2006. The corporation may  
21 set standards and adopt rules and regulations to carry out the pur-  
22 poses of this section, including, but not limited to, establishing  
23 applicant eligibility criteria, application forms and procedures,  
24 and photovoltaic system requirements; provided that the corpora-  
25 tion shall make or cause to be made loans to low, moderate, and  
26 upper moderate income residential customers prior to other appli-  
27 cants. The corporation shall submit a report detailing the stan-  
28 dards, rules and regulations to the joint committee on  
29 telecommunication, utilities and energy no later than February 1,  
30 2006.

1 SECTION 16. Section 19 of chapter 25, as so appearing, is  
2 hereby further amended by adding the following paragraph:

3 The commissioner of the division of energy resources is hereby  
4 authorized and directed to establish a program to assist consumers  
5 with energy efficient residential improvements by creating a loan  
6 program that offers zero interest loans to residential homeowners  
7 in the commonwealth. In establishing said program, the commis-  
8 sioner may offer such loans through state or federally chartered  
9 banking institutions or credit unions that do business in the com-  
10 monwealth and that are governed by the provisions of chapter 167  
11 or chapter 171. The funding for this section shall be provided  
12 from the Residential Conservation Service program, administered  
13 by all Massachusetts electric and gas utilities and by chapter 775  
14 of the acts of 1975, as amended, chapter 164 of the acts of 1997,  
15 as amended, and regulations 225 CMR 4.00 and 5.00. Not less  
16 than \$5,000,000 shall be made available to be expended on  
17 interest and administrative costs for implementation of the pro-  
18 gram. The division shall make such loans available for purchases

19 made on or after January 1, 2006 but not later than December 31,  
20 2006. The division shall establish guidelines to carry out the pur-  
21 poses of this section, including, but not limited to, establishing  
22 applicant criteria, application forms and procedures, and energy  
23 efficiency product requirements. The division shall submit a  
24 report detailing the guidelines to the joint committee on telecom-  
25 munications, utilities and energy no later than December 1, 2005.

1 SECTION 17. Notwithstanding any general or special law to  
2 the contrary, the division of capital asset management and mainte-  
3 nance shall, in consultation with the Massachusetts Technology  
4 Park Corporation, develop a plan to sustain and enhance the posi-  
5 tion of Massachusetts as a national leader in promoting green  
6 buildings by integrating renewable energy technologies and sus-  
7 tainable, high performance design concepts into buildings and  
8 facilities that are owned, operated, leased or otherwise controlled  
9 by the commonwealth or the University of Massachusetts and to  
10 develop a standard by which to benchmark the implementation of  
11 said plan. The plan shall analyze the feasibility, costs, benefits,  
12 and barriers to designing and constructing new buildings, and ren-  
13 ovating existing buildings including, but not limited to, devel-  
14 oping plans to (1) increase by at least 50 per cent by 2010, the  
15 inclusion of renewable energy technology as a source of energy  
16 generation and efficiency; (2) substantially exceed building code  
17 energy standards; (3) minimize electricity usage through energy  
18 efficiency measures and on-site, renewable energy technologies;  
19 (4) provide healthy and productive environments for building  
20 occupants; and (5) minimize incremental, additional costs  
21 incurred to design and construct a green building. The plan may  
22 include recommendations to support increased energy efficiency  
23 and integration of renewable technologies into state buildings,  
24 including proposed changes or modifications to state or federal  
25 laws or regulations. The plan shall include recommended funding  
26 levels and funding sources. The corporation shall submit the plan  
27 to the executive office for administration and finance, the house  
28 and senate committees on ways and means, the joint committee on  
29 economic development and emerging technologies, and the joint  
30 committee on telecommunications, utilities, and energy no later  
31 than May 1, 2006.

1     SECTION 18. Notwithstanding any general or special law to  
2 the contrary, the Massachusetts Technology Park Corporation  
3 shall establish the Massachusetts Fuel Cell Partnership, here-  
4 inafter referred to as the partnership, to develop a strategic frame-  
5 work to accelerate the development and deployment of  
6 commercially viable fuel cell and related hydrogen production,  
7 storage and distribution technologies and support the growth and  
8 development of the fuel cell industry cluster in the common-  
9 wealth. The partnership may draw on the participation of compa-  
10 nies, academic institutions, state and federal agencies, nonprofit  
11 organizations, trade associations, including the Massachusetts  
12 Hydrogen Coalition, so-called, and other parties. The strategic  
13 framework developed by the partnership may include, but not be  
14 limited to the following: (1) identification of the members of the  
15 fuel cell cluster; (2) identification and analysis of the needs of  
16 cluster members; (3) identification and analysis of technical, sci-  
17 entific, financial, legal, and regulatory obstacles to the develop-  
18 ment of commercially viable fuel cell and related enabling  
19 technologies; (4) analysis of opportunities to leverage federal  
20 research and development funding and improve the competitive-  
21 ness of Massachusetts entities to attract such federal and other  
22 funding sources; and (5) identification and development of the  
23 parameters, mission, and a pro forma budget for establishing and  
24 operating a fuel cell research and testing center which may be  
25 located at a qualified Massachusetts institution of higher educa-  
26 tion; and (6) development of an action plan, including funding  
27 recommendations, to address the identified needs of the fuel cell  
28 cluster and potential means to improve the global competitive  
29 position of the fuel cell cluster. The corporation shall submit  
30 copies of the strategic framework to the joint committee on eco-  
31 nomic development and emerging technologies and the joint com-  
32 mittee on telecommunication, utilities and energy no later than  
33 June 15, 2006.

1     SECTION 19. Section 7 shall take effect on January 1, 2008.